



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JLP:ddj
Docket No: 5739-99
9 November 1999

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 9 November 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by CNO memorandum 5420 SER N133D/099554 of 19 October 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, D.C. 20350-2000

IN REPLY REFER TO

5420

Ser N133D/

OCT 19 1999

099554

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL
RECORDS

Via: Assistant for BCNR Matters (PERS-00XCB)

Subj: COMMENTS AND RECOMMENDATIONS IN THE CASE OF
[REDACTED]

Ref: SECNAVINST 7220.80D

Encl: Docket Number 05739-99

1. Forwarded, recommending disapproval.

2. On 20 March 1995, [REDACTED] transferred from a submarine duty assignment to a temporary non-submarine duty assignment followed by assignment in a limited duty status. He was paid CONSUBPAY for the first six months of his limited duty assignment as per the SUBPAY instruction, and a review of his Master Military Pay Account (MMPA) shows his CONSUBPAY stopped on 01 November 1995. On 31 May 1996 he returned to a submarine assignment and his CONSUBPAY resumed. On his application to the BCNR, [REDACTED] mentions that his detailer informed him that limited duty over 12 months counts as shore duty. Therefore [REDACTED] feels he was entitled to CONSUBPAY since he had sufficient obligated service to go back to a submarine following this "shore duty". Be that as it may, during the time frame that he was on **limited duty**, [REDACTED] was not physically qualified for submarine duty.

SECNAVINST 7220.80D, Section 6 clearly states "Submarine designated individuals who are placed in a Limited Duty (LIMDU) status will be considered qualified for submarine duty unless their LIMDU continues for a period of more than 6 months." It goes on to state that "Eligibility for CONSUBPAY will be terminated after 6 months of LIMDU. Individuals denied SUBPAY for medical reasons will not regain entitlement until the date they are determined fit for and/or reinstated to submarine duty by BUPERS."

D. S. RATTE
Submarine Pay
Program Manager